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**DRAFT ENVIRONMENT PROTECTION  
(WASTE TO RESOURCES) POLICY AND  
EXPLANATORY REPORT**

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***NOVEMBER 2008***



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**DRAFT ENVIRONMENT PROTECTION  
(WASTE TO RESOURCES) POLICY  
AND  
EXPLANATORY REPORT**

**ENVIRONMENT PROTECTION AUTHORITY**

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# Draft Environment Protection (Waste to Resources) Policy and Explanatory Report

## Public consultation

The EPA seeks your views regarding the draft *Environment Protection (Waste to Resources) Policy* attached to this Explanatory Report. The draft Policy and Explanatory Report may also be obtained from the Authority's website <[www.epa.sa.gov.au](http://www.epa.sa.gov.au)>. Comments are required to be submitted by **20 February 2009**.

The draft *Environment Protection (Waste to Resources) Policy* provides regulatory underpinning for *South Australia's Waste Strategy 2005–2010*. The proposals in the policy will:

- promote the implementation of the waste management hierarchy,
- help broaden the responsibility for waste management amongst stakeholders,
- provide improved options for regulating illegal dumping and inappropriate stockpiling,
- avoid or minimise the risks of environmental harm from waste management,
- promote consistency and transparency for industry by requiring the Authority to take into account specified guidelines when assessing environmental authorisations and development applications for depots, and
- create opportunities for industry sectors to work with the Authority to achieve certainty regarding expected behaviours and a more 'level playing field' by developing prescribed industry codes of practice for the appropriate management of waste.

All submissions received by the EPA during the consultation period will be acknowledged and treated as public documents unless provided in confidence, subject to the requirements of the *Freedom of Information Act 1991*, and may be quoted in EPA reports. Comments may be forwarded by mail, facsimile or email to:

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Emailed submissions are preferred.

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## EXECUTIVE SUMMARY

The proposed Environment Protection (Waste to Resources) Policy is intended to support the achievement of *South Australia's Strategic Plan 2007* target of reducing waste to landfill by 25% by 2014. In particular, it will provide a regulatory underpinning for *South Australia's Waste Strategy 2005–2010*, including promoting resource recovery and the diversion of waste from landfill. To achieve these outcomes, the draft policy contains:

- A waste management objective that requires application of the waste management hierarchy. The objective must be taken into account in the administration of the policy and in determinations by the Environment Protection Authority in relation to environmental authorisations and development applications.
- Provisions prohibiting the unlawful disposal or stockpiling of waste.
- Requirements that waste produced in Metropolitan Adelaide not be disposed of to landfill unless it has first been subject to resource recovery (subject to specific exemptions).
- Provisions prohibiting the disposal of certain waste types to landfill.
- Standards required to be met by all waste transporters (licensed or unlicensed).
- Support for the development of industry codes of practice by enabling compliance with specified codes to satisfy the general environmental duty.
- Additional obligations relating to particular activities and wastes, including medical waste, the disposal of medical sharps, and the management of unlicensed activities involving listed wastes.
- Provisions requiring the Authority to consider management plans for particular hazardous wastes when determining matters in relation to environmental authorisations or development applications.
- Provisions requiring the Authority to consider specified guidelines for various waste facilities when determining matters in relation to environmental authorisations or development applications.

The *Environment Protection (Waste Management) Policy 1994* would be revoked by the new policy. Its provisions are superseded by provisions in the proposed policy.



## **PART 1**

### **EXPLANATORY INFORMATION**

# 1 INTRODUCTION

## 1.1 General

The Environment Protection Authority (the Authority) has developed a draft Environment Protection (Waste to Resources) Policy (Waste to Resources EPP) for South Australia. This explanatory report describes the objectives, outcomes and impacts of the draft EPP.

Part 1 of this report provides background information describing the need for a new Waste to Resources EPP, and a clause-by-clause discussion of the draft EPP.

Part 2 contains the formal draft Environment Protection (Waste to Resources) Policy.

## 1.2 What is an environment protection policy?

An environment protection policy (EPP) is one of a number of subordinate legislative tools provided for under the *Environment Protection Act 1993* (the Act) to address environment protection matters. An EPP can be made for any purpose directed towards securing the objects of the Act. This may include setting out requirements or mandatory provisions. Section 34 of the Act makes it an offence to contravene a mandatory provision of an EPP and specifies penalties for the each category of offence.

## 1.3 Why do we need a Waste to Resources EPP?

There have been significant developments in waste management since the adoption of the *Environment Protection (Waste Management) Policy 1994*. The draft Waste to Resources EPP contains provisions that are reflective of these modern waste management practices and an awareness of the need to reduce our ecological footprint.

South Australia's ecological footprint has been calculated at 7.0 global hectares per person. *South Australia's Strategic Plan 2007* observes<sup>1</sup>:

South Australia's ecological footprint is considerably higher than the OECD's average of 5.2 and the world average of 2.2. To attain sustainability we must reduce our ecological footprint. This will involve more responsible consumption, innovation and new technology.

Reducing waste generated and disposed of to landfill will be an important element in reducing our ecological footprint.

Close to one million tonnes of waste is deposited in landfill from metropolitan Adelaide each year, representing approximately one tonne per person per annum<sup>2</sup>. Over 100,000 tonnes of wastes is disposed in non-metropolitan areas each year. It is estimated that up to 70–80% of the material disposed of to landfill is recyclable.

The continued disposal of material to landfill creates long-term environmental impacts, both directly through the degradation of land and generation of greenhouse gases, and indirectly through wasting resources that may otherwise be used for beneficial purposes.

The South Australian Government is committed to reducing these impacts, with South Australia's Strategic Plan 2007 seeking a 25% reduction in waste to landfill by 2014<sup>3</sup>. *South Australia's Waste Strategy 2005–2010* is the key document detailing how to

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<sup>1</sup> At pg 24.

<sup>2</sup> After several years of metropolitan solid waste amounts increasing (up to a peak of 1.15 million tonnes), there has been some decline in waste being disposed of to landfill in recent years, reflecting the operations of Zero Waste SA.

<sup>3</sup> Target 3.8.

achieve this reduction. The strategy describes how different waste streams can be managed and reduced using a variety of non-regulatory and regulatory options under the five strategic objectives of:

- foster sustainable behaviour
- reduce waste
- implement effective systems
- implement effective policy instruments
- cooperate successfully.

Non-regulatory options, including financial incentives, education, research and cooperation, form important elements of South Australia's Waste Strategy 2005–2010. The draft EPP has been designed particularly to support those elements that have been assessed in the strategy as requiring regulatory underpinning and will also complement the many non-regulatory elements of the strategy.

#### 1.4 Benefits of a Waste to Resources EPP

The proposals in the Waste to Resources EPP will:

- promote the implementation of the waste management hierarchy both within the waste and resource recovery industry and amongst licensable activities generally,
- help broaden the responsibility for waste management amongst stakeholders (from generation through collection and transport to materials recovery or final disposal);
- provide improved options for regulating illegal dumping and inappropriate stockpiling,
- avoid or minimise the risks of environmental harm from waste management, including by keeping problematic wastes out of landfill, imposing obligations on transporters of waste, unlicensed activities that involve listed wastes, and the handling of scheduled wastes and medical waste,
- promote consistency and transparency for industry by requiring the Authority to take into account specified guidelines when assessing environmental authorisations and development applications for landfills, material recovery facilities, transfer stations and composting depots, and
- create opportunities for industry sectors to work with the Authority to achieve certainty regarding expected behaviours and a more 'level playing field' by developing prescribed industry codes of practice for the appropriate management of waste.

An effective Waste to Resources EPP will improve resource recovery levels and reduce the amount of waste disposed of to landfill. Benefits arising from this will include reduced greenhouse gas emissions, water use and pollution, reduced demand for natural resources, and better amenity in some areas. Analysis of various benefits associated with reducing the amount of waste disposed to landfill were considered in *South Australia's Waste Strategy 2005–2010 Benefit Cost Assessment (2007)*<sup>4</sup>. Also, research for the Australian Council of Recyclers in *Australian Recycling Values—A net benefits assessment (2008)* has demonstrated the major energy savings, greenhouse gas emission savings, reduced water usage, and natural resources conserved, through the operations of its members<sup>5</sup>.

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<sup>4</sup> Refer <[www.zerowaste.sa.gov.au/reports.php](http://www.zerowaste.sa.gov.au/reports.php)>.

<sup>5</sup> Refer <[www.acor.org.au/pdfs/Recycling](http://www.acor.org.au/pdfs/Recycling)>.

## 1.5 The Waste to Resources EPP and climate change

As stated above, implementation of the Waste to Resources EPP will reduce greenhouse gas emissions.

The Waste to Resources EPP will support achievement of the target within the *Climate Change and Greenhouse Gas Reduction Act 2007* to reduce by 31 December 2050 greenhouse gas emissions within the state by at least 60% to an amount that is equal to or less than 40% of 1990 levels as part of a national and international response to climate change.

The Australian Government is developing a Carbon Pollution Reduction Scheme that will involve a carbon emission trading scheme, transitional assistance and complementary measures. This scheme is still under development with an exposure draft of the legislative package anticipated to be available for consultation from December 2008<sup>6</sup>. The structure of the scheme will have important implications for waste and resource recovery industries and has been the subject of significant submissions by or on behalf of these industries to date<sup>7</sup>. The developing scheme will continue to be monitored and the implications for proposed EPP features considered.

## 1.6 Waste management policy development in other states

All states and territories have legislation to regulate waste activities, with more modern legislation (eg Western Australia, Queensland, Victoria and New South Wales) promoting the waste management hierarchy. Many also have administrative strategies aimed at improving resource recovery.

Interstate legislation has been considered in the development of the South Australian Waste to Resources EPP.

## 1.7 Process to make an EPP

The development of any EPP must follow the legislative requirements as prescribed in section 28 of the Act. The following steps are required:

- consultation with the minister in relation to the general purpose and intended effect of the proposed policy [section 28(3)(a)]
- advertising the intent to prepare a draft policy and explanatory report [section 28(3)(b)]
- referral of the draft EPP and explanatory report to prescribed bodies and any relevant public authorities [section 28(5)]
- public exhibition of the draft policy for a minimum period of two months, inviting interested persons to make written submissions, and advising that such submissions will be publicly exhibited [section 28(6)(a)–(d)]
- conducting a public information session on the draft policy and submissions [section 28(6)(e)]
- preparing responses to submissions and making the responses publicly available [section 28(8)–(9)]
- preparing a report to the minister on the draft EPP and outcomes of the consultation, with any recommendations to the minister. The minister may then decide to approve the draft EPP, approve the draft EPP as altered, or decline to approve the draft EPP [section 28(11)]

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<sup>6</sup> Refer <[www.climatechange.gov.au/emissionstrading/timetable.html](http://www.climatechange.gov.au/emissionstrading/timetable.html)>.

<sup>7</sup> Refer <[www.climatechange.gov.au/greenpaper/consultation/submissions.html](http://www.climatechange.gov.au/greenpaper/consultation/submissions.html)>.

- following ministerial approval, referring the EPP to the governor for authorisation setting a date for its coming into operation [section 28(12)]
- referring the EPP to the Environment, Resources and Development Committee
- laying the EPP before both Houses of Parliament for 14 sitting days.

The development of the draft EPP has involved early engagement with selected stakeholders. The Waste Management Association of Australia (SA Branch) or WMAA SA was consulted during the development of various concepts proposed for the EPP. In late 2005, the Local Government Association (LGA) Waste Committee, Business SA and the WMAA SA were invited to comment on proposals for a new Waste EPP. Presentations on the potential features of an EPP were given to the Local Government Waste Management Steering Committee, South East LGA, South Australian Regional Organisations of Councils, Business SA, a local government waste forum attended by many council and waste industry representatives, and a waste industry consultation meeting hosted by the Authority.

### **1.8 Relationship between the EPP and the Development Act 1993**

The *Development Act 1993* is the relevant planning authority to consult with prescribed agencies regarding specified classes of development. In the case of developments of environmental significance (Schedule 21 of the *Development Regulations 1993*), the relevant authority must have regard to the comments of the Authority. For developments of major environmental significance (Schedule 22 of the *Development Regulations 1993*), the Authority may direct the refusal of an application or conditions to be attached to any approval that may be granted by the relevant authority.

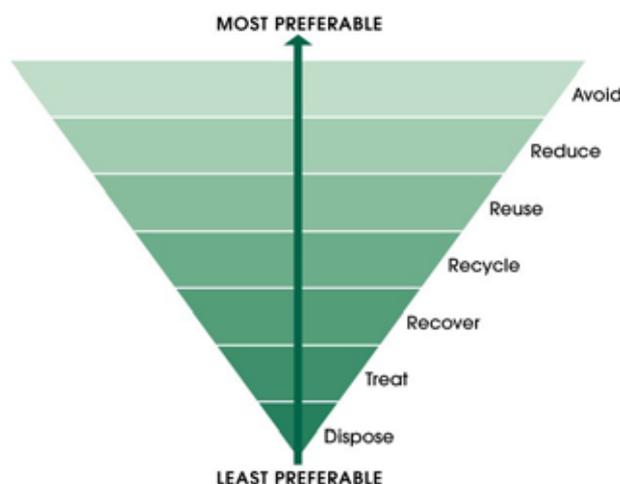
In cases where either comment or direction on a development application is provided, section 57 of the Act requires the Authority to have regard to the objects of the Act (section 10), the general environmental duty (section 25), the waste strategy adopted under the *Zero Waste SA Act 2004*, and any relevant environment protection policies.

The draft Waste to Resources EPP sets out additional matters that the Authority must have regard to when assessing referred development applications that involve the generation of waste and for waste or resource recovery facilities

## 2 EXPLANATION OF THE DRAFT WASTE TO RESOURCES EPP

### 2.1 The Waste to Resources EPP, waste management hierarchy and environmental risks

Fundamentally, the proposed Waste to Resources EPP will strongly support the implementation of the waste management hierarchy as defined in the Zero Waste SA Act 2004 and pictured below.



It will help **avoid** or **reduce** the waste production through its waste management objective and the requirement for that objective to be taken into account in the administration of the EPP and when determining matters in relation to environmental authorisations or development applications (clauses 6–9). The proposed landfill bans may also encourage upstream changes in the type of wastes produced (clause 12).

The EPP will strongly promote the **reuse**, **recycling** or **recovery** of waste (together termed ‘resource recovery’) through the consideration of the waste management objective, the requirement that waste from specified areas be subject to resource recovery prior to be able to be lawfully disposed of to landfill (clause 11, Schedule 2), the proposed landfill bans for various wastes with high recoverability potential (clause 12, Schedule 4), and the requirement for the EPA to have regard to specified standards for depots when determining matters in relation to environmental authorisations or development applications (Part 6). Improved controls on unlawful disposal will further assist with supporting resource recovery from waste (clause 10). Clause 4 helps provide guidance for the EPA and the waste and resource recovery industry as to what constitutes a ‘waste’ after being subject to resource recovery.

The **treatment** of wastes (here meaning chemical or biological treatment to stabilise or remove the risks associated with a waste) is effectively supported through the banning of hazardous waste from disposal at landfill (clause 12, Schedule 4).

The **disposal** of waste will be the least preferable option as evidenced by the waste management objective, the requirement that waste from specified areas be subject to resource recovery prior to be able to be lawfully disposed of to landfill (clause 11, Schedule 2), and the proposed landfill bans for wastes with high recoverability potential (clause 12, Schedule 4). It is known that disposal is the only appropriate option in some circumstances and the EPP recognises this (eg landfill disposal certificates in clauses 11 and 12 and the regulation of appropriate disposal per clauses 10 and 14, and Part 4,

Division 2). The EPA will be required to have regard to the Landfill Guidelines when determining matters in relation to environmental authorisations or development applications for landfills (clause 21).

The EPP will avoid or minimise the risks of environmental harm from wastes, including through the responsibilities to be placed on all transporters of waste (clause 14), additional obligations relating to particular activities or wastes (Part 4), and the standards to be applied when determining matters in relation to environmental authorisations or development applications for depots (Part 6). Also, clause 10 will give improved controls on unlawful disposal. Some of the proposed landfill bans are due to the risks posed by the wastes (Clause 12, Schedule 4). Waste management codes of practice for an industry sector may create more consistent expectations and behaviour across an industry (clause 20).

## 2.2 Part 1—Preliminary

### ***Clause 1: Short title***

Clause 1 names the EPP.

### ***Clause 2: Commencement***

Clause 2 provides the usual mechanism for the commencement of the EPP by a date to be fixed.

### ***Clause 3: Interpretation***

Clause 3 provides definitions for terms used throughout the EPP. Changes to the definitions will be able to be made using the simpler procedure available under section 32(1)(c) of the Act upon a change being made to some other provision. For example, when Schedule 1 of the Act is amended, necessary changes may be made to the EPP's definitions.

'Dispose' has been given a broad meaning within the EPP, being defined to include the depositing of waste. It also includes causing or allowing waste to be deposited, in order to assist in ensuring that all relevant parties fall within the scope of key mandatory provisions of the EPP. The definition used in the EPP does not influence or alter the word's meaning in the Act or other subordinate legislation. The broader definition of 'dispose' in the EPP will not affect the concept of disposal as used in the *Environment Protection (Fees and Levy) Regulations 1994*.

The definition of the term 'treatment' in the EPP is different from the concept of treatment as used in the waste industry and the Authority's administrative documents. The word 'treatment' is typically used by the waste industry and the Authority to mean chemical or biological treatment such as composting, rendering or fat extraction, stabilisation by immobilisation or fixation, or the treatment of sewage and septic tank effluent. In the EPP, the term is used in a context that the Authority would usually refer to as 'processing'. The expression 'treatment' has had to be used in the EPP however due to the terminology of Act and the existing Schedule 1. The potential for confusion is recognised by the Authority and it is intended that the expression and subsequent references would be changed once Schedule 1 is updated<sup>8</sup>.

The EPP defines 'material recovery facilities' and 'transfer stations'. These activities cannot always readily be precisely distinguished from each other. For example, material

<sup>8</sup> The regulation of waste and resource recovery activities under Schedule 1 is currently being reviewed and consultation on proposed changes will be undertaken.

recovery at a site may be at a level where it is incidental only to the operation of a 'transfer station' or alternatively may be of such a character and scale as to mean that the activities of both 'material recovery facility and transfer station' are being conducted at a particular site.

#### ***Clause 4: Certain material declared to be waste***

Section 3(1) of the Act defines 'waste' as follows:

**waste** means—

- (a) any discarded, rejected, abandoned, unwanted or surplus matter, whether or not intended for sale or for recycling, reprocessing, recovery or purification by a separate operation from that which produced the matter; or
- (b) anything declared by regulation (after consultation under section 5A) or by an environment protection policy to be waste,  
whether of value or not;

Clause 4 of the EPP clarifies that material remains a waste until it is a product ready and intended for imminent use without the need for further treatment to prevent any environmental harm that might result from such use or that meets specifications or standards published or approved by the Authority.

Under this provision, material that still poses an environmental risk when used will remain a waste (eg fill available for sale containing asbestos fragments, or soil sold with contaminants).

A recovered material that was in the possession of the owner who intended to use it as an ingredient in a blended product, where the material was ready for such use without further treatment to avoid creating environmental harm, would no longer be a waste.

#### ***Clause 5: Amendment of policy without following normal procedure***

Clause 5 provides for a streamlined process to incorporate specified policy amendments and facilitate an efficient response to emerging issues. Amendments would be subject to the consultation and approval processes specified in the clause.

The provisions proposed to be able to amended using the streamlined process are outlined below.

Clause 3(1) provides definitions. Recognising that this clause may need efficient amendment to reflect the review of licensing of waste and resource recovery facilities under Schedule 1 or other provisions in the policy, this clause is able to be amended under the simple amendment process.

Clause 10(1) provides that a person must not dispose of waste except in the manners specified. Further methods of appropriate disposal may be specified under the simple amendment process.

Clause 11(2) provides that the provisions requiring waste from specified areas to be treated prior to disposal to landfill will not apply until the second anniversary of the policy coming into operation. A later date may be specified under the simple amendment process. Such a change could become necessary if appropriate infrastructure is not in place to support the effective operation of this clause by the specified date.

Clause 15(2) provides the circumstances in which the offence created for the management of unlicensed activities involving listed wastes does not apply due to other

appropriate disposal controls applying. Further exceptions may be specified under the simple amendment process.

Clause 18(2) provides the requirement that medical sharps not be disposed of through a general kerbside waste collections system not apply until the second anniversary of the policy coming into operation. A later date may be specified under the simple amendment process—a change that may become necessary if comprehensive alternative collection options are not in place to support the effective operation of this clause by the specified date.

Part 4 Division 3 requires specified management plans for Hexachlorobenzenes (HCBs), Organochlorine pesticides (OCPs) and Polychlorinated Biphenyls (PCBs) to be taken into account when considering relevant environmental authorisations or development applications. This Part may be amended using the simple amendment process.

Part 6 sets out specified documents to be taken into account when considering relevant environmental authorisations or development applications for various waste and resource recovery facilities. This field, particularly for resource recovery, is developing rapidly and thus this clause is able to be amended using the simple amendment process.

All of the operational Schedules to the policy are subject to the simple amendment process to aid the responsiveness of the policy in an area where there are changing opportunities:

- Schedule 1 specifies wastes to which the Waste to Resources EPP does not apply.
- Schedule 2 specifies the areas of waste production to which the requirement that waste be treated prior to landfill applies.
- Schedule 3 specifies the wastes which are not subject to the requirement for waste to be treated prior to disposal to landfill.
- Schedule 4 specifies the wastes banned from landfills. This Schedule may only be altered upon consideration of the additional matters in clause 4(4).
- Schedule 5 specifies the codes of practice (currently only one) for which compliance with that code of practice will satisfy the general environmental duty.

### ***Clause 6: Application of policy (+ Schedule 1)***

Clause 6, together with Schedule 1, indicates that the policy does not apply to waste consisting of radioactive waste. This waste is already appropriately regulated under the *Radiation Protection and Control Act 1982*.

## **2.3 Part 2—Waste management objective**

### ***Clause 7: Waste management objective***

Clause 7 sets out that the objective of the policy is to achieve sustainable waste management by applying the waste management hierarchy consistently with the principles of ecologically sustainable management of section 10 of the Act.

It specifies that waste management in the state should also promote best practice waste management, include effective recording, monitoring and reporting systems, and promote environmental responsibility.

### ***Clause 8: Waste management objective and administration of policy***

Clause 8 provides that the Authority and other administering agencies must take the waste management objective into account in the administration of the policy.

### ***Clause 9: Waste management objective and determinations by the Authority under Part 6 of Act***

Clause 9 proposes that the Authority must take the waste management objective into account when determining matters in relation to environmental authorisations or development applications. This links particularly to sections 47 and 57 of the Act. Importantly, this means that the application of the waste management hierarchy would be a relevant consideration for all such activities, not just waste and resource recovery facilities.

## **2.4 Part 3—General waste management obligations**

### **2.4.1 Division 1: Unlawful disposal of waste**

#### ***Clause 10: Unlawful disposal of waste***

Clause 10 provides that only a limited range of options will be acceptable for the disposal of waste. In all other cases, disposal would be unlawful, with the penalty dependent upon the nature of the waste disposed of and the receiving environment (either Category A or Category C). Category A offences can attract maximum penalties of up to \$250 000 for a body corporate or \$120 000 for a natural person where the breach is intentional or reckless. In other instances, it is \$150 000 for a body corporate and \$60 000 for a natural person. For a Category C offence the maximum penalty for intentionally or recklessly contravening the provision is a Division 3 fine (\$30 000). In other instances, it is \$2 000 (expiation fee: \$200).

Disposal of waste in contravention of the clause is also declared to be environmental harm for the purposes of section 5(1)(b), supporting the use of the general environmental duty and the issuing of orders under the Act.

Clauses 10(1)(a)–(e) make provision for obviously acceptable disposal requirements. Clause 10(1)(d) relates to the provision for the disposal of waste under any environmental authorisation, not just authorisations for waste and resource recovery activities.

Under clauses 10(1)(f) and 10(2), it is not unlawful for a person to dispose of waste to that person's own land or to the land of another with consent, provided it does not cause:

- environmental harm affecting water,
- site contamination,
- an environmental nuisance,
- unstable geotechnical conditions,
- an infestation of vermin, rodents or other pests, or
- a fire hazard, or
- is not into a sinkhole in a karst environment.

This is consistent in intent with, but narrower than, the defence against causing environmental harm provided for in respect of the general offences in section 84(1)(c) of the Act.

If a person disposes of waste onto another's land with consent and without causing any of the conditions listed above, they and the land owner or occupier would not be culpable under this clause. However, the EPP would not affect the operation of the Act

and thus, depending on the nature of the operation, the land owner or occupier could still be guilty of conducting a waste depot without a licence (refer section 36).

Clause 10 would make it an offence for a person to dispose of waste on their land, or another's land with consent, if it is disposed of that causes any of the results listed above. It also makes it an offence for an owner or occupier to permit another to dispose of waste on their land in a manner listed above.

The EPP includes the following definition, 'dispose of waste includes deposit the waste and cause the waste to be disposed of or deposited'. This gives the clause the potential to deal with more than illegal dumping of waste. It means that the stockpiling or other depositing of potentially harmful waste that cannot be controlled through licensing may be effectively regulated through the application of clause 10(1)(f) with clauses 10(2) and 10(3), and the general environmental duty.

The definition of 'dispose' also ensures that those who have caused waste to be disposed of inappropriately (as well as transporters, land owners and occupiers) are captured.

The dumping of waste into fresh or marine waters is not referred to in the clause as it is controlled under the *Environment Protection (Water Quality) Policy 2003*, most particularly clause 17 of that policy.

#### **2.4.2 Division 2—Waste to be treated prior to disposal to landfill**

##### ***Clause 11: Waste to be treated prior to disposal to landfill (+ Schedules 2 and 3)***

Clause 11 provides that, two years after the policy comes into operation, waste (other than the exceptions specified in Schedule 3) produced in specified areas (currently only Metropolitan Adelaide under Schedule 2) must not be disposed of at a landfill unless a landfill disposal certificate has been provided. Over time, it may be appropriate that this clause apply to other areas through additions to Schedule 2.

Notably, pursuant to Schedule 3, where a council provides a separate kerbside collection system for recyclable waste and vegetative matter, the remaining waste or rubbish is not required to be subject to resource recovery.

A landfill disposal certificate is a certificate certifying that the waste is either:

- residual waste resulting from appropriate resource recovery processes; or
- is not in a condition suitable for reasonably available resource recovery processes (eg it has been contaminated).

The purpose of the clause is to avoid most metropolitan waste being taken directly to landfill or simply aggregated for bulk transport at a transfer station and then landfilled. Most metropolitan waste should be redirected through a material recovery facility or composting depot. Waste may also appropriately move either directly to a diverse range of resource recovery operations, or through a material recovery facility or transfer

station to such other resource recovery operations. The variety of potential resource recovery operations is outlined in Table 1.

**Table 1 Resource recovery options**

<b>POTENTIAL RESOURCE RECOVERY OPERATIONS</b>
<p>Recovery or recycling processing facility for goods to sell for use, eg:</p> <ul style="list-style-type: none"> <li>• manufacture of alternative fuels</li> <li>• manufacture of waste-derived soil conditioners, fertilisers, etc</li> <li>• manufacture of recycled plastic posts, benches, etc</li> <li>• manufacture of recycled paper, glass, etc</li> <li>• manufacture of compost</li> <li>• manufacture of road base, etc</li> </ul>
<p>Direct on-site recycling, recovery, or reuse</p>
<p>Direct off-site recycling, recovery, or reuse, including, eg:</p> <ul style="list-style-type: none"> <li>• burning of untreated waste products (eg sawdust, tyres) for energy</li> <li>• use of fly-ash in making cement.</li> </ul>
<p>Direct beneficial application to land, eg:</p> <ul style="list-style-type: none"> <li>• soil conditioning</li> <li>• land reclamation.</li> </ul>
<p>Stockpiling (not directly associated with other operations)—sometimes waste soils and other materials will simply be stored at a site until they can be reused elsewhere, eg:</p> <ul style="list-style-type: none"> <li>• waste soils to be used as fill and covered in redevelopment projects</li> <li>• ground asphalt piles to be used in future road projects).</li> </ul>

Table 1 demonstrates that resource recovery options are already broad, and options are increasing all the time with creativity and the development of new technologies. For this reason, clause 11(5) gives a broad definition of ‘appropriate resource recovery processes’ that links with the definition of ‘resource recovery’ in clause 3(1).

Elements of the clause would apply to both persons disposing of waste and landfill operators. All elements are Category B offences, making the maximum penalty for intentionally or recklessly contravening the provision a Division 3 fine (\$30 000). In other instances, it is \$4 000 (expiation fee: \$300). A landfill operator will be protected from contravening the clause if the operator has received an appropriate certificate specifying the waste to be residual waste.

Control of the standards of recovery achieved at material recovery facilities, composting depots and alternative appropriate resource recovery processes to ensure that the ‘residual waste’ does not contain large amounts of recoverable material would come through the landfill bans (see clause 12) and, where relevant, licence conditions.

### 2.4.3 Division 3—Disposal of prohibited landfill waste

#### ***Clause 12: Disposal of prohibited landfill waste (+ Schedule 4)***

Clause 12 will make it an offence for a person to dispose of banned wastes (prohibited landfill waste) at a landfill or into a receptacle for collection or transport for disposal at a landfill. It is also an offence for the operator of a landfill depot to receive such waste. All elements are Category B offences, making the maximum penalty for intentionally or recklessly contravening the provision a Division 3 fine (\$30 000). In other instances, it is \$4 000 (expiation fee: \$300).

Schedule 4 sets out the wastes proposed to be banned from landfills. Currently all bans are proposed to apply across the whole of the state. Consultation will seek views on the appropriateness of this.

It will not be an offence to dispose of such wastes to landfill where a landfill disposal certificate is provided. A landfill disposal certificate is a certificate certifying that the waste is not in a condition suitable for reasonably available resource recovery processes.

Please note that clause 3(4) provides that, ‘For the purposes of this policy, unless the contrary intention appears, a reference to waste of a particular kind includes a reference to waste that contains waste of that kind to a significant extent’. Therefore, for example, wastes that contain significant amounts of hazardous waste would also be banned from landfill under the current structure of the Schedule. Such banned waste would need to be subjected to chemical or biological treatment.

#### ***Clause 13: Exemptions under Part 6 of the Act***

Clause 13 provides that applications for exemptions to clause 12 will not need to be subject to public notice under section 39(1) of the Act.

### 2.4.4 Division 4—General waste transport

#### ***Clause 14: General waste transport***

Clause 14(1) creates a Category D offence that sets out the general expectations that any person who transports waste (whether licensed or unlicensed) must meet. The maximum penalty for intentionally or recklessly contravening the provision is a Division 3 fine (\$30 000). In other instances, it is \$500 (expiation fee: \$100). This clause does not affect whether or not a transporter requires a licence. It will minimise the risks of environmental harm from all transport of waste and create a more level playing field for all transporters of waste, whether licensed or unlicensed.

Clause 14(2) provides that a person who transports waste must not dispose of the waste at a depot unless it is an appropriate licensed or approved depot. In other words, a person must not dispose of waste at a depot that the depot is not approved to accept. The maximum penalty for intentionally or recklessly contravening the provision is a Division 3 fine (\$30 000). In other instances, it is \$4 000 (expiation fee: \$300).

## **2.5 Part 4—Additional obligations relating to particular activities and wastes**

### **2.5.1 Division 1—Management of unlicensed activities involving listed wastes**

#### ***Clause 15: Management of unlicensed activities involving listed wastes***

Clause 15 creates an obligation on a person managing listed wastes in respect of unlicensed activities to ensure that appropriate licensed waste transporters are engaged to remove the waste and to take reasonable steps to ensure that the waste is transported to an appropriate licensed or approved depot for disposal. This is a Category B offence, making the maximum penalty for intentionally or recklessly contravening the provision a Division 3 fine (\$30 000). In other instances, it is \$4 000 (expiation fee: \$300).

### **2.5.2 Division 2—Medical waste**

Clauses 16 and 17 apply mainly to ‘prescribed activities’ as defined in clause 3. This is the same as the requirements under the *Environment Protection (Waste Management) Policy 1994* (the 1994 EPP). It distinguishes between licensed and unlicensed activities producing medical waste under clause 3(4) of Schedule 1.

#### ***Clause 16: Collection and transport of medical waste***

This provision comes from the 1994 EPP.

Clause 16 requires that medical waste produced in the course of a prescribed activity must, as soon as reasonably practicable, be placed in a prescribed container, collected and transported appropriately. This is a Category B offence, making the maximum penalty for intentionally or recklessly contravening the provision a Division 3 fine (\$30 000). In other instances, it is \$4 000 (expiation fee: \$300). ‘Prescribed containers’ are defined in clause 3.

#### ***Clause 17: Duties of councils, hospitals and pharmacies in relation to medical waste***

Clause 17 sets out the expectations for the collection, storage and disposal of medical waste by a council, hospital or pharmacy to which the clause applies. It draws largely from the 1994 EPP. The duties are expressed as a Category B offence, making the maximum penalty for intentionally or recklessly contravening the provision a Division 3 fine (\$30 000). In other instances, it is \$4 000 (expiation fee: \$300).

#### ***Clause 18: Disposal of medical sharps***

Clause 18 provides that, from two years after the policy coming into operation, it will be an offence to dispose of medical sharps through a general kerbside waste collection system provided by a council. The maximum penalty for intentionally or recklessly contravening the provision is a Division 3 fine (\$30,000). In other instances, it is \$500 (Expiation fee: \$100).

The delay in operation is to ensure that comprehensive, alternative disposal options are in place prior to disposal in general kerbside waste collection comprises an offence. Consultation will determine whether such delay is necessary.

### **2.5.3 Division 3—Management of other particular wastes**

#### ***Clause 19: Matters to be taken into account by the Authority under Part 6 of Act in relation to HCBs, OCPs and PCBs***

Clause 19 provides that in determining matters required to be determined by the Authority under Part 6 of the Act—

- in relation to environmental authorisations or applications for environmental authorisations; or
- in relation to applications for development authorisations referred to the Authority under the Development Act 1993,

the Authority must have regard to the respective management plans for HCBs, OCPs and PCBs prepared under the National Strategy for the Management of Scheduled Wastes by ANZECC, as relevant.

### **2.6 Part 5—Waste management codes of practice and general environmental duty**

#### ***Clause 20: Waste management codes of practice and general environmental duty (+ Schedule 5)***

Clause 20 provides that compliance with a prescribed code of practice will satisfy the general environmental duty in relation to pollution by waste of a kind to which the code applies. Schedule 5 sets out the prescribed codes of practice.

The clause makes it clear that compliance with any other provision of the policy, any other EPP or regulations under the Act, and any conditions of an environmental authorisation must also be met.

The purpose of this clause is to provide a positive incentive for industry sectors to comply with codes of practice that may be developed. It provides a non-exclusive, explicit way in which to comply with the general environmental duty.

### **2.7 Part 6—Design, construction and operational standards for depots**

#### ***Clauses 21–24***

Clause 21 provides that in determining matters required to be determined by the Authority under Part 6 of the Act:

- in relation to environmental authorisations or applications for environmental authorisations, or
- in relation to applications for development authorisations referred to the Authority under the *Development Act 1993*,

that relate to landfill depots, material recovery facilities, transfer stations or composting depots, the Authority must have regard to the *EPA Guidelines for Environmental Management of Landfill Facilities (Municipal Solid Waste and Commercial and Industrial General Waste) 2007*, *Environmental Guidelines for Resource Recovery and Waste Transfer Depots 2001*, *Environmental Guidelines for Collection Depots 2000* or *Guidelines for Composting Works in South Australia 2007*, as relevant.

It is recognised that the Environmental Guidelines for Resource Recovery and Waste Transfer Depots and Environmental Guidelines for Collection Depots require review. The Guidelines for Composting Works in South Australia will only be able to be referenced if completed before the Waste to Resources EPP is approved.

## **2.8 Schedules**

There are six schedules proposed in the draft policy.

**Schedule 1** sets out wastes to which the policy does not apply.

**Schedule 2** specifies the areas of waste production to which the requirement that waste be treated prior to landfill applies (under clause 11).

**Schedule 3** lists the kinds of waste excluded from the application of clause 11 (waste to be treated prior to disposal to landfill).

**Schedule 4** lists prohibited landfill wastes. The list contains wastes proposed to be banned due to environmental risks associated with them and wastes proposed to be banned primarily due to their recoverability.

**Schedule 5** contains the prescribed codes of practice (one only at this time) with which compliance may satisfy the general environmental duty pursuant to clause 20.

**Schedule 6** revokes the 1994 EPP.

## **PART 2**

### **DRAFT ENVIRONMENT PROTECTION (WASTE TO RESOURCES) POLICY**

South Australia

# Environment Protection (Waste to Resources) Policy 2008

under the *Environment Protection Act 1993*

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**Part 1—Preliminary****1—Short title**

This policy may be cited as the *Environment Protection (Waste to Resources) Policy 2008*.

**2—Commencement**

This policy will come into operation on a day to be fixed by the Governor by notice in the Gazette.

**3—Interpretation**

- (1) In this policy, unless the contrary intention appears—

*Act* means the *Environment Protection Act 1993*;

*ANZECC* means the Australian and New Zealand Environment and Conservation Council;

**appropriate licensed or approved depot** in relation to waste, means—

- (a) a depot licensed for the reception, storage, treatment or disposal of waste of that kind; or
- (b) a depot that the Authority has determined may be conducted for the reception, storage, treatment or disposal of waste of that kind without the requirement for an environmental authorisation under Part 6 of the Act;

**appropriate licensed material recovery facility or composting depot** in relation to waste, means a material recovery facility or composting depot licensed for the reception, storage or treatment of waste of that kind;

**composting depot** means a depot for the treatment of organic waste for the production of compost, and includes a composting works as described in clause 6(3) of Schedule 1 Part A of the Act;

**depot** means a landfill depot, material recovery facility, transfer station or composting depot;

**dispose** of waste includes deposit the waste and cause or allow the waste to be disposed of or deposited;

**domestic waste** means waste produced in the course of a domestic activity;

**hazardous waste** means listed waste having a characteristic described in schedule A list 2 of the *National Environment Protection (Movement of controlled waste between States and Territories) Measure*, as amended from time to time;

**HCBs** means Hexachlorobenzenes;

**landfill depot** means a depot for the controlled disposal of waste to land;

**licensed** means subject to a licence under Part 6 of the Act;

**liquid waste** means waste classified as liquid waste in accordance with the assessment process set out in the guideline *Liquid waste classification test*, re-issued by the Authority in September 2003;

**listed waste** means waste of a kind specified in Schedule 1 Part B of the Act;

**material recovery facility** means a depot for the treatment of waste for resource recovery, other than a composting depot;

**medical sharp** means an object or device that has been discarded in the course of medical, dental or veterinary practice or research and has a sharp point, protuberance or cutting edge that is capable of causing a penetrating injury to humans, and includes (but is not limited to) needles, hyperdermic needles, syringes with needles or any other surgical instruments;

**medical waste** means waste consisting of—

- (a) medical sharps; or
- (b) human tissue, bone, organ, body part or foetus; or
- (c) a vessel, bag or tube containing a liquid body substance; or
- (d) an animal carcass discarded in the course of veterinary research or medical practice or research; or

- (e) a specimen or culture discarded in the course of medical, dental or veterinary practice or research and any material that has come into contact with such a specimen or culture; or
- (f) any other article or matter that is discarded in the course of medical, dental or veterinary practice or research and that poses a significant risk to the health of a person who comes into contact with it;

**Metropolitan Adelaide** has the same meaning as in the *Development Act 1993*;

**OCPs** means Organochlorine pesticides;

**oil** means—

- (a) petroleum based oils including lubricant base oils, prepared lubricant additives containing carrier oils, lubricants for engines, gear sets, pumps and bearings, greases, hydraulic fluids, brake fluids, transmission oils, and transformer and heat transfer oils; or
- (b) synthetic equivalents of the substances referred to in paragraph (a); or
- (c) cooking oil other than cooking oil used in the course of a domestic activity;

**operator** of a depot that is licensed means the holder of the licence in respect of the depot;

**packaging** includes containers and wrapping;

**PCBs** means Polychlorinated Biphenyls;

**prescribed activity** means—

- (a) medical practice other than—
  - (i) the practice of pathology; or
  - (ii) medical practice at a hospital; or
- (b) dental practice other than at a hospital; or
- (c) nursing practice other than at a hospital; or
- (d) operating a nursing home; or
- (e) veterinary practice; or
- (f) operating a hospital with a capacity of less than 40 beds; or
- (g) operating an immunisation clinic;

**prescribed container** means a container—

- (a) that is impervious to moisture and leak-proof; and
- (b) that will not rip, tear or burst under normal conditions of handling; and
- (c) on which is displayed a label that complies with the labelling requirements of the *Industry Code of Practice for the Management of Clinical and Related Wastes, 5th edition 2007*, prepared by the Australian and New Zealand Clinical Waste Management Industry Group, as amended from time to time; and

- (d) that, in the case of a container for waste consisting of medical sharps, complies with the requirements of *AS 4031-1992 Non-reusable containers for the collection of sharp medical items used in health care areas*, as amended from time to time, or *AS 4261:1994 Reusable containers for the collection of sharp items used in human and animal applications*, as amended from time to time, as the case requires;

**prohibited landfill waste** for an area means waste of a kind declared in Schedule 4 to be prohibited landfill waste for that area;

**resource recovery** in relation to waste, means—

- (a) reusing the waste; or
- (b) recycling the waste; or
- (c) recovering energy and other resources from the waste;

**sinkhole** means a surface depression caused by a collapse of soil or overlying formation above fractured or cavernous bedrock;

**transfer station** means a depot for the reception and aggregation of waste streams prior to their transport to some other depot or place for further sorting, resource recovery or disposal;

**waste management** includes resource recovery operations;

**waste management hierarchy** has the same meaning as in the *Zero Waste SA Act 2004*;

**waste management objective**—see clause 7;

**waste transporter** means a person who collects or transports waste for fee or reward;

**wastewater** has the same meaning as in the *Environment Protection (Water Quality) Policy 2003*.

- (2) For the purposes of this policy, a reference to the **treatment** of waste is a reference to the treatment of waste in some way—
- (a) to recover material from the waste that may be reused or recycled; or
  - (b) to recover energy or other resources from the waste; or
  - (c) to prepare the waste for further treatment to recover material from the waste that may be reused or recycled or to recover energy or other resources from the waste,

and includes, but is not limited to, sorting, shredding, crushing, compacting or packaging the waste.

- (3) Waste will not be taken to have been subject to **treatment** at a material recovery facility for the purposes of this policy by reason of the fact that the waste has been packaged for disposal.
- (4) For the purposes of this policy, unless the contrary intention appears, a reference to waste of a particular kind includes a reference to waste that contains waste of that kind to a significant extent.

- 
- (5) In this policy, the expression *mandatory provision* followed by a statement as to the category of an offence signifies that contravention of the provision at whose foot the expression appears will be an offence of the stated category for the purposes of Part 5 of the Act.

**Note—**

Unless the contrary intention appears, terms used in this policy that are defined in the Act have the respective meanings assigned to those terms by the Act.

#### **4—Certain material declared to be waste**

For the purposes of the definition of *waste* in section 3(1) of the Act, material resulting from the treatment of waste continues to be waste except insofar as it constitutes a product—

- (a) that is ready and intended for imminent use without the need for further treatment to prevent any environmental harm that might result from such use; or
- (b) that meets specifications or standards published or approved in writing by the Authority.

#### **5—Amendment of policy without following normal procedure**

- (1) The following provisions of this policy may be amended by the Minister by notice in the Gazette under section 32(1)(c) of the Act:
- (a) clause 3(1);
  - (b) clause 10(1);
  - (c) clause 11(2);
  - (d) clause 15(2);
  - (e) clause 18(2);
  - (f) Part 4 Division 3;
  - (g) Part 6;
  - (h) Schedule 1;
  - (i) Schedule 2;
  - (j) Schedule 3;
  - (k) Schedule 4;
  - (l) Schedule 5.
- (2) The following kinds of changes may be made to a provision by amendment under subclause (1):
- (a) in the case of clause 3(1)—a change that is consequential on a change to some other provision;
  - (b) in the case of clause 10(1) and clause 15(2)—the addition of a further exception;
  - (c) in the case of clause 11(2) and clause 18(2)—the substitution of a later date;

- (d) in the case of any provision, but subject to paragraphs (b) and (c)—the revocation or substitution of the provision wholly or in part, the variation of the text of the provision or the insertion of material into the provision.
- (3) The Authority must not make a recommendation to the Minister for amendment of any of the provisions referred to in subclause (1) unless—
- (a) the proposal for the amendment has been reduced to writing, clearly setting out the purpose and the likely economic, business, social and environmental impacts of and reasons for the proposed amendment; and
  - (b) there has been consultation with relevant government agencies and relevant organisations, prescribed bodies and industries and the community likely to be affected by the proposed amendment; and
  - (c) the views expressed by those consulted have been considered by the Authority and communicated to the Minister.
- (4) The Authority must not make a recommendation to the Minister for amendment of Schedule 4 to declare a kind of waste to be prohibited landfill waste for an area unless, before doing so, the Authority has considered the waste management objective and each of the following to the extent they are relevant:
- (a) whether the disposal of waste of that kind to landfill in that area (or anywhere) presents an unacceptable risk to the health and safety of any person or the environment;
  - (b) whether processes, technologies or systems exist that enable resource recovery in relation to waste of that kind;
  - (c) whether there are existing or developing markets to enable resource recovery in relation to waste of that kind;
  - (d) whether it is reasonable or practicable, having regard to the location and availability of depots, processes, technologies or systems, to implement resource recovery in relation to waste of that kind produced in that area;
  - (e) whether it is reasonable and practicable for new processes, technologies or systems to be put in place to enable resource recovery in relation to waste of that kind produced in that area;
  - (f) whether there are programs in place in the State or elsewhere in Australia that reduce the need for the disposal of waste of that kind to landfill.

## 6—Application of policy

Subject to section 7 of the Act, this policy applies to all waste within the meaning of the Act other than waste of a kind specified in Schedule 1.

## Part 2—Waste management objective

### 7—Waste management objective

- (1) The objective of this policy (the *waste management objective*) is to achieve sustainable waste management by applying the waste management hierarchy consistently with the principles of ecologically sustainable development set out in section 10 of the Act.

- 
- (2) In order to meet the waste management objective, waste management in this State should also—
- (a) promote best practice and accountable waste management, taking into account regional differences within the State; and
  - (b) include effective recording, monitoring and reporting systems with respect to waste transport, resource recovery and waste disposal; and
  - (c) promote environmental responsibility and involvement in waste avoidance, waste minimisation and waste management within the community.

### **8—Waste management objective and administration of policy**

The Authority and other administering agencies must take the waste management objective into account in the administration of this policy.

### **9—Waste management objective and determinations by Authority under Part 6 of Act**

The Authority must take the waste management objective into account—

- (a) in determining matters required to be determined by the Authority under Part 6 of the Act in relation to environmental authorisations or applications for environmental authorisations;
- (b) in determining matters required to be determined by the Authority under Part 6 of the Act in relation to applications for development authorisations referred to the Authority under the *Development Act 1993*.

## **Part 3—General waste management obligations**

### **Division 1—Unlawful disposal of waste**

#### **10—Unlawful disposal of waste**

- (1) A person must not dispose of waste except—
- (a) at an appropriate licensed or approved depot; or
  - (b) by—
    - (i) depositing it in a receptacle provided by a council for collection by a general kerbside waste collection system; or
    - (ii) placing it for collection as a part of a kerbside waste collection system provided by a council,where it is the council's policy that waste of that kind may be disposed of by means of that system;
  - (c) by depositing it in a safe and secure receptacle for transport, or collection and transport, to an appropriate licensed or approved depot; or
  - (d) by incineration if that process is authorised at law; or
  - (e) as required or authorised under an environmental authorisation or as otherwise required or authorised by the Authority; or

**Environment Protection (Waste to Resources) Policy 2008**

## Part 3—General waste management obligations

## Division 1—Unlawful disposal of waste

- (f) subject to subclause (2), to land owned or occupied by the person, or to land with the permission of the owner or occupier of the land.

Mandatory provision:

- (a) Category A offence if the waste—
- (i) is listed waste; or
  - (ii) is disposed of to land where the total costs and expenses that would reasonably be incurred to clean up the waste and transport it to and dispose of it at an appropriate licensed or approved depot would exceed \$50 000; or
  - (iii) is disposed of in a quantity, or total quantity, exceeding 20 kilograms; or
  - (iv) is disposed of in a manner referred to in subclause (2);
- (b) in any other case—Category C offence.
- (2) Subclause (1)(f) does not apply if the waste is disposed of—
- (a) in a manner that results in environmental harm affecting water occurring naturally above or under the ground or water introduced to an aquifer or other area under the ground; or
  - (b) in a manner that results in site contamination or an environmental nuisance; or
  - (c) in a sinkhole located in a karst environment; or
  - (d) in a manner that causes or has the potential to cause unstable geotechnical conditions (including landslides, soil erosion or substantial movement of the waste); or
  - (e) in a manner that causes or has the potential to cause an infestation of vermin, rodents or other pests; or
  - (f) in a manner that is or may be a potential fire hazard.
- (3) An owner or occupier of land must not permit another to dispose of waste to the land in a manner referred to in subclause (2).

Mandatory provision: Category A offence.

- (4) The result of disposing of waste in contravention of this clause is declared to be environmental harm for the purposes of section 5(1)(b) of the Act.

**Division 2—Waste to be treated prior to disposal to landfill****11—Waste to be treated prior to disposal to landfill**

- (1) This clause applies to waste produced in an area specified in Schedule 2 other than waste excluded from the application of this clause by Schedule 3.
- (2) This clause will not apply until the second anniversary of the day fixed by the Governor for this policy to come into operation.

- (3) A person must not dispose of waste to which this clause applies at a landfill depot unless the operator of the depot has first been given a landfill disposal certificate for the waste.

Mandatory provision: Category B offence.

- (4) The operator of a landfill depot must not receive waste to which this clause applies for disposal at the depot unless the operator has first been given a landfill disposal certificate for the waste.

Mandatory provision: Category B offence.

- (5) In this clause—

*appropriate resource recovery processes* means resource recovery processes conducted—

- (a) at an appropriate licensed material recovery facility or composting depot; or
- (b) at some other facility in accordance with the waste management hierarchy and to the extent reasonably achievable;

*landfill disposal certificate* for waste means a certificate, in a form approved by the Authority, in which a person of the kind specified in the form certifies—

- (a) that the waste is residual waste resulting from appropriate resource recovery processes; or
- (b) that the waste (being waste aggregated for resource recovery) is not in a condition suitable for reasonably available resource recovery processes.

### Division 3—Disposal of prohibited landfill waste

#### 12—Disposal of prohibited landfill waste

- (1) A person must not dispose of waste at a landfill depot in an area for which the waste is prohibited landfill waste.

Mandatory provision: Category B offence.

- (2) The operator of a landfill depot must not receive waste for disposal at the depot if the depot is situated in an area for which the waste is prohibited landfill waste.

Mandatory provision: Category B offence.

- (3) Subclauses (1) and (2) do not apply to the disposal or receipt of waste at a landfill depot if the operator of the depot has first been given a landfill disposal certificate for the waste.

- (4) A person must not dispose of waste in an area for which the waste is prohibited landfill waste by depositing it in a receptacle for collection or transport for disposal at a landfill depot.

Mandatory provision: Category B offence.

- (5) In this clause—

*landfill disposal certificate* for waste means a certificate, in a form approved by the Authority, in which a person of the kind specified in the form certifies that the waste (being waste aggregated for resource recovery) is not in a condition suitable for reasonably available resource recovery processes.

### 13—Exemptions under Part 6 of Act

Section 39(1) of the Act does not apply to an application for an exemption from clause 12.

## Division 4—General waste transport

### 14—General waste transport

- (1) A person who transports waste on or in a vehicle must—
- (a) take all reasonable and practicable steps to cover, contain or secure the waste to ensure that it remains on or in the vehicle throughout the course of transportation; and
  - (b) ensure that the vehicle being used to transport the waste is designed and sufficiently well maintained so as to prevent the spillage or leakage of the waste; and
  - (c) take all reasonable and practicable steps to prevent spillage or leakage of the waste during loading and unloading of the waste; and
  - (d) not cause any danger or potential danger by transporting volatile waste in the passenger compartment or transporting incompatible kinds of waste in the same container, or in close proximity in or on the vehicle; and
  - (e) if a waste transporter, have on the vehicle an emergency spill kit of a kind suitable for waste of the kind being transported; and
  - (f) comply with all reasonable directions of the operator of a licensed depot at which the waste is received; and
  - (g) comply with the provisions of the *Australian Code for the Transport of Dangerous Goods by Road and Rail, Seventh Edition* published by the National Transport Commission, as amended from time to time.

Mandatory provision: Category D offence.

- (2) A person who transports waste must not dispose of the waste at a depot unless the depot is an appropriate licensed or approved depot.

Mandatory provision: Category B offence.

## Part 4—Additional obligations relating to particular activities and wastes

### Division 1—Management of unlicensed activities involving listed wastes

#### 15—Management of unlicensed activities involving listed wastes

- (1) Subject to subclause (2), a person who is not required to hold a licence in respect of an activity that produces, or involves the storage, handling, treatment or disposal of, listed waste must, if the person engages in that activity—
- (a) ensure that if the listed waste is removed by a waste transporter, the transporter is a licensed waste transporter authorised to transport waste of that kind; and

- (b) in disposing of the listed waste, take reasonable steps to ensure that the waste is transported to an appropriate licensed or approved depot.

Mandatory provision: Category B offence.

- (2) Subclause (1) does not apply—
  - (a) to the disposal of waste if the waste is—
    - (i) deposited in a receptacle provided by a council for collection by a general kerbside waste collection system; or
    - (ii) placed for collection as a part of a kerbside waste collection system provided by a council,  
and it is the council's policy that waste of that kind may be disposed of by means of that system; or
  - (b) in respect of medical waste produced in the course of a prescribed activity.

## **Division 2—Medical waste**

### **16—Collection and transport of medical waste**

- (1) Medical waste produced in the course of a prescribed activity must, as soon as is reasonably practicable after its production, be placed in a prescribed container and—
  - (a) collected for disposal by—
    - (i) a licensed waste transporter authorised to collect and transport medical waste; or
    - (ii) a council; or
  - (b) transported by a person employed or engaged in the business producing the waste directly to—
    - (i) a licensed depot at which medical waste may be received pursuant to the licence; or
    - (ii) a hospital.
- (2) A person who carries on a business involving a prescribed activity must ensure that medical waste produced in the course of the business is placed in a prescribed container and collected or transported in accordance with subclause (1).

Mandatory provision: Category B offence.

### **17—Duties of councils, hospitals and pharmacies in relation to medical waste**

- (1) This clause applies to—
  - (a) a council or hospital that receives and stores medical waste produced in the course of a prescribed activity; and
  - (b) a pharmacy that receives and stores medical waste produced in the course of a domestic activity.

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- (2) A council, hospital or pharmacy to which this clause applies must ensure that the following provisions are complied with in relation to any medical waste received by it:
- (a) if any other waste is mixed with medical waste, the other waste is to be dealt with under this clause in the same way as is required in relation to medical waste;
  - (b) all medical waste must be stored in containers that are weatherproof, shatterproof, leak proof and insect and vermin proof;
  - (c) all containers for medical waste that are kept for further use must be thoroughly cleaned and disinfected as soon as reasonably practicable after emptying;
  - (d) all containers used for the storage or transport of medical waste must be clearly labelled as containing medical waste;
  - (e) all containers of medical waste must be stored in a secure location;
  - (f) all necessary equipment required to clean and disinfect the area in case of accidental spillage of medical waste must be readily available and accessible;
  - (g) discarded medical sharps or any other sharp articles—
    - (i) must be contained for disposal in containers that comply with the requirements of *AS 4031-1992 Non-reusable containers for the collection of sharp medical items used in health care areas*, as amended from time to time, *AS 4261:1994 Reusable containers for the collection of sharp items used in human and animal applications*, as amended from time to time, or *AS 4939-2001 Non-reusable personal use containers for the collection and disposal of hypodermic needles and syringes*, as amended from time to time, as the case requires; and
    - (ii) must not be subject to compaction by a compacting device nor placed for storage or transport in a portable or mobile compactor;
  - (h) medical waste must be disposed of as soon as reasonably practicable;
  - (i) all medical waste must be—
    - (i) disposed of by incineration; or
    - (ii) disposed of by such other method of treatment or disposal as is approved by the Authority and subject to such conditions as the Authority thinks fit; or
    - (iii) collected for disposal by—
      - (A) a licensed waste transporter authorised to collect and transport medical waste; or
      - (B) a council;
  - (j) before the collection of medical waste for disposal, the transporter must be advised of the nature of the waste, hazards associated with the waste and any precautions that need to be taken during the collection, transport or disposal of the medical waste;

- (k) the transporter must be given such assistance as is required to ensure that loading operations are carried out in such a way as to prevent spillage of any medical waste.

Mandatory provision: Category B offence.

### **18—Disposal of medical sharps**

- (1) A person must not dispose of medical sharps through a general kerbside waste collection system provided by a council.

Mandatory provision: Category D offence.

- (2) This clause will not apply until the second anniversary of the day fixed by the Governor for this policy to come into operation.

## **Division 3—Management of other particular wastes**

### **19—Matters to be taken into account by Authority under Part 6 of Act in relation to HCBs, OCPs and PCBs**

- (1) In determining matters required to be determined by the Authority under Part 6 of the Act—
  - (a) in relation to environmental authorisations or applications for environmental authorisations; or
  - (b) in relation to applications for development authorisations referred to the Authority under the *Development Act 1993*,

that involve the management of HCBs, the Authority must, in addition to taking into account the waste management objective, take into account the *National Strategy for the Management of Scheduled Wastes*, as amended from time to time, and the *Hexachlorobenzene Waste Management Plan* prepared under the *National Strategy for the Management of Scheduled Wastes* by ANZECC, as amended from time to time.

- (2) In determining matters required to be determined by the Authority under Part 6 of the Act—
  - (a) in relation to environmental authorisations or applications for environmental authorisations; or
  - (b) in relation to applications for development authorisations referred to the Authority under the *Development Act 1993*,

that involve the management of OCPs, the Authority must, in addition to taking into account the waste management objective, take into account the *National Strategy for the Management of Scheduled Wastes*, as amended from time to time, and the *Organochlorine Pesticides Waste Management Plan* prepared under the *National Strategy for the Management of Scheduled Wastes* by ANZECC, as amended from time to time.

- (3) In determining matters required to be determined by the Authority under Part 6 of the Act—
  - (a) in relation to environmental authorisations or applications for environmental authorisations; or

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- (b) in relation to applications for development authorisations referred to the Authority under the *Development Act 1993*,

that involve the management of PCBs, the Authority must, in addition to taking into account the waste management objective, take into account the *National Strategy for the Management of Scheduled Wastes*, as amended from time to time, and the *Polychlorinated Biphenyls Waste Management Plan* prepared under the *National Strategy for the Management of Scheduled Wastes* by ANZECC, as amended from time to time.

**Part 5—Waste management codes of practice and general environmental duty****20—Waste management codes of practice and general environmental duty**

- (1) For the purposes of section 25(3)(b) of the Act, compliance with a prescribed code of practice by a person to whom the code applies will satisfy the general environmental duty under section 25 of the Act in relation to pollution by waste of a kind to which the code applies.
- (2) For the purposes of subclause (1), a prescribed code of practice is to be taken to include a requirement for compliance with—
- (a) any other provision of this policy; and
  - (b) any provision of another environment protection policy or the regulations under the Act; and
  - (c) any condition of an environmental authorisation,

to the extent to which the provision or condition is applicable to an activity to which the prescribed code of practice applies.

- (3) In this clause—

*prescribed code of practice* means a document declared to be a prescribed code of practice by Schedule 5.

**Part 6—Design, construction and operational standards for depots****21—Matters to be taken into account by Authority under Part 6 of Act in relation to landfill depots**

In determining matters required to be determined by the Authority under Part 6 of the Act—

- (a) in relation to environmental authorisations or applications for environmental authorisations; or
- (b) in relation to applications for development authorisations referred to the Authority under the *Development Act 1993*,

that relate to landfill depots, the Authority must, in addition to taking into account the waste management objective, take into account the *EPA Guidelines for Environmental Management of Landfill Facilities (Municipal Solid Waste and Commercial and Industrial General Waste)* 2007 prepared by the Authority, as amended from time to time.

**22—Matters to be taken into account by Authority under Part 6 of Act in relation to material recovery facilities**

In determining matters required to be determined by the Authority under Part 6 of the Act—

- (a) in relation to environmental authorisations or applications for environmental authorisations; or
- (b) in relation to applications for development authorisations referred to the Authority under the *Development Act 1993*,

that relate to material recovery facilities, the Authority must, in addition to taking into account the waste management objective, take into account the *Environmental Guidelines for Resource Recovery and Waste Transfer Depots* 2001 and the *Environmental Guidelines for Collection Depots* 2000 prepared by the Authority, as amended from time to time.

**23—Matters to be taken into account by Authority under Part 6 of Act in relation to transfer stations**

In determining matters required to be determined by the Authority under Part 6 of the Act—

- (a) in relation to environmental authorisations or applications for environmental authorisations; or
- (b) in relation to applications for development authorisations referred to the Authority under the *Development Act 1993*,

that relate to transfer stations, the Authority must, in addition to taking into account the waste management objective, take into account the *Environmental Guidelines for Resource Recovery and Waste Transfer Depots* 2001 prepared by the Authority, as amended from time to time.

**24—Matters to be taken into account by Authority under Part 6 of Act in relation to composting depots**

In determining matters required to be determined by the Authority under Part 6 of the Act—

- (a) in relation to environmental authorisations or applications for environmental authorisations; or
- (b) in relation to applications for development authorisations referred to the Authority under the *Development Act 1993*,

that relate to composting depots, the Authority must, in addition to taking into account the waste management objective, take into account the *Guidelines for Composting Works in South Australia* 2007 prepared by the Authority, as amended from time to time.

## Schedule 1—Waste to which policy does not apply

For the purposes of clause 6, this policy does not apply to the following waste:

- (a) radioactive waste the management or disposal of which is regulated under the *Radiation Protection and Control Act 1982* or a law of the Commonwealth.

## Schedule 2—Specified areas for clause 11

The following areas are specified for the purposes of clause 11 (Waste to be treated prior to disposal to landfill):

- (a) Metropolitan Adelaide.

## Schedule 3—Waste excluded from application of clause 11

Waste of the following kinds is excluded from the application of clause 11 (Waste to be treated prior to disposal to landfill):

- (a) hazardous waste;
- (b) medical waste;
- (c) quarantine waste;
- (d) wastewater;
- (e) waste collected by a council by a general kerbside waste collection system where the council also provides separate general kerbside waste collection systems for recyclable waste and vegetative matter;
- (f) waste that the operators of all licensed material recovery facilities or composting depots are not authorised under their licences to receive at the facilities or depots;
- (g) waste that is required or authorised by an environmental authorisation to be disposed of to landfill without treatment or otherwise required or authorised by the Authority to be disposed of to landfill without treatment;
- (h) for the period until the third anniversary of the day fixed by the Governor for this policy to come into operation—domestic waste transported other than by a licensed waste transporter.

## Schedule 4—Prohibited landfill waste

- 1 For the purposes of clause 12 (Disposal of prohibited landfill waste), the following waste is prohibited landfill waste for the area specified:

Waste	Area
cardboard and paper waste aggregated for resource recovery separately from other waste at the place at which the waste is generated	all of the State
fluorescent lighting and any other lighting that contains mercury	all of the State
glass packaging aggregated for resource recovery (whether alone or with other recyclables) at the place at which the waste is generated	all of the State
hazardous waste	all of the State

Waste	Area
lead acid batteries	all of the State
liquid waste	all of the State
medical waste	all of the State
metals—aluminium, copper, steel or iron or a blend or alloy of any such metals aggregated for resource recovery (whether alone or with other recyclables) at the place at which the waste is generated, other than metal products with components of different metals that cannot be readily separated	all of the State
oil	all of the State
PET or HDPE plastic packaging aggregated for resource recovery (whether alone or with other recyclables) at the place at which the waste is generated	all of the State
tyres—whole tyres other than earth mover tyres and tyres that have been exposed to radioactive materials through mining operations	all of the State
vegetative matter aggregated for resource recovery and collected by a council by a general kerbside waste collection system operated as a separate collection system for such waste, other than such waste collected from within a quarantine area declared under the <i>Fruit and Plant Protection Act 1992</i>	all of the State
on and after the first anniversary of the day fixed by the Governor for this policy to come into operation—computer monitors and televisions, including components, subassemblies and consumables that are part of the equipment when discarded	all of the State
on and after the first anniversary of the day fixed by the Governor for this policy to come into operation—PP or LDPE plastic packaging aggregated for resource recovery (whether alone or with other recyclables) at the place at which the waste is generated	all of the State
on and after the first anniversary of the day fixed by the Governor for this policy to come into operation—vehicles	all of the State
on and after the first anniversary of the day fixed by the Governor for this policy to come into operation—whitegoods	all of the State
on and after the second anniversary of the day fixed by the Governor for this policy to come into operation—PVC or PS plastic packaging aggregated for resource recovery (whether alone or with other recyclables) at the place at which the waste is generated	all of the State
on and after the second anniversary of the day fixed by the Governor for this policy to come into operation—whole earth mover tyres	all of the State
on and after the third anniversary of the day fixed by the Governor for this policy to come into operation—electrical or electronic equipment not referred to above	all of the State

2 In this Schedule—

**HDPE** means High Density Polyethylene (No. 2 Plastics Identification Code marking);

**LDPE** means Low Density Polyethylene (No. 4 Plastics Identification Code marking);

**PET** means Polyethylene Terephthalate (No. 1 Plastics Identification Code marking);

**PP** means Polypropylene (No. 5 Plastics Identification Code marking);

**PS** means Polystyrene (No. 4 Plastics Identification Code marking);

*PVC* means Polyvinyl Chloride (No. 3 Plastics Identification Code marking).

### **Schedule 5—Waste management codes of practice and general environmental duty**

For the purposes of clause 20, the following are prescribed codes of practice:

- (a) the *Industry Code of Practice for the Management of Clinical and Related Wastes, 5th edition, 2007* prepared by the Australian and New Zealand Clinical Waste Management Industry Group, as amended from time to time.

### **Schedule 6—Revocation of *Environment Protection (Waste Management) Policy 1994***

The *Environment Protection (Waste Management) Policy 1994* is revoked.